IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: - 19.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.270 of 2006

Rajendran ... Petitioner

vs.

1. State rep. by its
Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai.600 009.

2. The District Collector
and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of Writ of Habeas Corpus to direct the respondents to produce the detenue, viz., Saraswathi, wife of Rajendran, who is now detained in Special Prison for Women, Vellore, in pursuance of the detention order passed by the 2nd respondent on 15.02.2006 in D.O. No.09/2006-C2, before Court, call for the records, set aside the order and set the detenue at liberty forthwith.

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For Petitioner : Mr.S.Swamidoss Manokaran

For Respondents : Mr. M.Babu Muthu Meeran,
Addl. Public Prosecutor.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner challenges the detention order, dated 15.02.2006, detaining his wife by name Saraswathi as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenue.

The particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenue was received by the Government on 07.03.2006, remarks were called for on 08.03.2006 and the same were received from the Sponsoring Authority on 16.03.2006. Thereafter, File was dealt with by the Under Secretary and Deputy Secretary on 17.03.2006. Finally, the Minister for Prohibition and Excise passed orders on 20.03.2006. However, the rejection letter was prepared only on 27.03.2006. The said letter was sent to the Central Prison for service on 28.03.2006 and served to the detenue on 30.03.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 20.03.2006, there is no reason for taking time till 27.03.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays on Saturday and Sunday, we hold that the delay is on the higher side, which caused prejudice to the detenue in considering her representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenue is directed to be set at liberty forthwith from the custody unless she is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

JI.

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To

1. Secretary to Government, Prohibition and Excise Department,
   Fort St. George, Chennai 600 009.

2. District Magistrate & District Collector, Thiruvannamalai.

3. The Superintendent, Special Prison for Women, Vellore.
   (In duplicate for communication to detenue)

4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.270 of 2006

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HIGH COURT OF JUDICATURE MADRAS
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